

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petitions Pursuant to Section 706 of the)	
Telecommunications Act of 1996)	WC Docket No. 14-115 (Wilson)
For Removal of State Barriers to)	WC Docket No. 14-116 (Chattanooga)
Broadband Investment)	
and Competition)	

COMMENTS OF THE COALITION FOR LOCAL INTERNET CHOICE

The Coalition for Local Internet Choice (“CLIC”) represents a wide range of public and private interests that support the authority of local communities to make the broadband Internet choices that are essential for economic competitiveness, democratic discourse, and quality of life in the 21st century. CLIC is dedicated to advocating for the right of localities to provide or facilitate the provision of advanced communications infrastructure and services -- either with private companies or on their own, if necessary -- unconstrained by laws designed to preclude new networks or competition.

CLIC submits these comments in response to the petitions of the City of Wilson, North Carolina (“Wilson”)¹ and the Electric Power Board of Chattanooga, Tennessee (“EPB”)² (collectively “Petitioners”), which were filed on July 24, 2014, and noticed for public comment

¹ See Petition Pursuant to Section 706 of the Telecommunications Act of 1996 for Removal of State Barriers to Broadband Investment and Competition, filed by City of Wilson, North Carolina, WC Docket No. 14-115 (filed July 24, 2014) (Wilson Petition).

² See Petition Pursuant to Section 706 of the Telecommunications Act of 1996 for Removal of State Barriers to Broadband Investment and Competition, filed by Electric Power Board, Chattanooga, Tennessee, WC Docket No. 14-116 (filed July 24, 2014) (EPB Petition).

on July 28, 2014.³ It is our intent that these comments will assist the Federal Communications Commission in understanding the importance of local Internet choice to the deployment of advanced networks and services to all Americans as a means of meeting the challenges of the 21st century.

Contents

I. THE IMPORTANCE OF LOCAL INTERNET CHOICE.....	2
II. AMERICA’S COMMUNITIES HAVE A STRONG TRACK RECORD IN DEPLOYING AND ENABLING BROADBAND INNOVATION LOCALLY	4
III. LOCAL BROADBAND INITIATIVES SPUR PRIVATE INVESTMENT AND ECONOMIC DEVELOPMENT.....	16
IV. LOCAL EFFORTS ARE SIGNIFICANTLY BURDENED BY EFFORTS TO STOP THE EMERGENCE OF NEW NETWORKS AND COMPETITION	19
V. CONCLUSION	22

I. THE IMPORTANCE OF LOCAL INTERNET CHOICE

Affordable access to advanced communications capabilities is essential to our national and local interests, and that will not occur in thousands of communities across America without the active engagement of local governments. For that reason, local communities must have the authority and opportunity to play an essential role in determining and shaping their own broadband Internet futures.

The importance of next-generation broadband communications networks to America’s economic development and global competitiveness has never been more apparent. While some

³ See Pleading Cycle Established for Comments on Electric Power Board and City of Wilson Petitions, Pursuant to Section 706 of the Telecommunications Act of 1996, Seeking Preemption of State Laws Restricting the Deployment of Certain Broadband Networks, Public Notice, WCB Docket Nos. 14-115 and 14-116 (rel. July 28, 2014).

communities have access to such networks today, the vast majority do not. The latter must be free to do whatever they reasonably believe to be necessary to obtain such networks, including working with willing incumbent carriers, entering into creative public-private partnerships, or even building their own networks if they consider that necessary. Of critical importance, communities and their accountable local governments are best suited to choose the approaches that will work best for them.

Around the world, next-generation networks are stimulating innovation and investment. The countries that make affordable access to such networks most widely and quickly available -- to their businesses, institutions, and residents -- will be the ones that are most successful in the emerging information-based global economy. The United States must not close off any viable option for enabling the deployment of the next generation networks that are so essential to our communities and to our national interest. Rather, as a matter of national policy, localities should have the opportunity to decide for themselves -- through local deliberation or local democratic processes -- whether to partner with incumbents or new private-sector entrants, whether to develop their own networks, whether to create incentives for private sector deployment of next-generation infrastructure, or whether to combine these and other practices in a way that meets local needs.

Unfortunately, some 21 states bar or significantly burden the opportunity of local government entities to meet the needs of their communities. Wilson, for example, was stopped by a state law (passed after it began service, with the presumed specific intent of stopping its growth) from expanding into rural areas within its own electric service territories -- which include areas in which there is no broadband service at all.

Chattanooga EPB faces a similar barrier, which precludes it from responding to pleas for its services in neighboring areas, and despite the fact that other communities and utilities have asked it to partner with them to scale its efforts to serve their unserved areas.

II. AMERICA'S COMMUNITIES HAVE A STRONG TRACK RECORD IN DEPLOYING AND ENABLING BROADBAND INNOVATION LOCALLY

Local communities, through their elected local officials, have deep experience in evaluating and making significant capital investments in infrastructure projects of all kinds, and they have a *20-year record of using advanced communications infrastructure to stimulate local innovation and economic development*. Local government entities such as Grant County, Washington; Kutztown, Pennsylvania; and Bristol, Virginia, pioneered the provision of fiber-to-the-home on a major scale before any major private sector company began building comparable infrastructure.

Public entities were also the first entities to invest in fiber infrastructure to serve schools and libraries with gigabit speeds. Communities as diverse as New York, New York; Montgomery County, Maryland; Seattle, Washington; and Skokie, Illinois were pioneers in providing high bandwidth services to schools over direct fiber connections – in some cases a full decade before the national need for school bandwidth was widely understood.

Local governments also have vast experience in operating communications networks that support public safety first responders, and they have been leaders for two decades in identifying and prioritizing digital inclusion and ensuring that no one in the community goes without Internet access.

For decades, thousands of local governments around the country have built or operated communications networks to serve the needs of their local communities. Many of these networks deliver greater speed, capacity, and reliability for internal or external uses than would

otherwise be available. Generally, these networks fall into three categories: (1) public-facing networks that reach all the way to the home or business; (2) internal networks that focus on intra- and inter-government uses; and (3) innovative public initiatives that enable shared risk or new opportunity for private entities and that stimulate private investment and Internet service provision. Each of these categories is discussed briefly below.

A. Public-Facing Networks

Among the networks in the first category are public fiber systems that provide broadband and other communications services to homes and businesses. According a study commissioned by the Fiber-to-the-Home Council, there were 57 of these systems operating in October 2009.⁴ Most of these networks were located in rural areas and were operated by municipal electric utilities that, in an earlier age, had brought the benefits of electricity to their communities when private providers did not see sufficient profit incentive to do so, much as these utilities were now bringing the benefits of robust broadband to their communities.⁵ As the Fiber-to-the-Home Council report also shows, municipal fiber networks have not only been very popular with their customers, but they have also enhanced economic development and benefitted their communities in multiple other ways. At the time of the study, municipal fiber systems that provide services directly to households and business averaged take rates of 54 percent nationwide, which exceeded by nearly 20 percent the average take rates of fiber systems then operated by large established carriers.

⁴ FTTH Council, “Municipal Fiber to the Home Deployments: Next Generation Broadband as a Municipal Utility” (October 2009),” <http://goo.gl/ZgChT3>. According to the Institute for Local Self Reliance, there are now at least 89 public fiber systems. ILSR, Community Network Map, <http://goo.gl/Y46Ia>.

⁵ J. Baller, “The Essential Role of Consumer-Owned Electric Utilities in Developing The National Information Infrastructure: A Historical Perspective” (1994), <http://goo.gl/GTvPJv>.

The following is a small sample of innovative public-facing projects that have been developed at the local level.

Lafayette, Louisiana: “When Nucomm International needed to locate a new call center – one that would add 1,000 jobs ... to the local economy – it chose Lafayette, Louisiana, because the city is building a massive fiber network to connect everyone.”⁶ Lafayette has recently garnered a great deal of attention in the tech sector with many companies relocating to the area based on the Internet connectivity.⁷

Cedar Falls, Iowa: The business case of Cedar Falls Utilities originally combined fiber to businesses with hybrid fiber-coaxial cable to residences, and it has now migrated to fiber-to-the-home as well. “In the 1990s, Cedar Falls Utilities built a citywide municipal hybrid fiber/coaxial network and provided specialized broadband telecommunications services including fiber connections to commercial and industrial customers in both the city and the industrial park. In contrast, the neighboring town of Waterloo, served by incumbent cable and telecommunications operators, generally did not have any fiber connectivity. Cedar Falls projected that, by the end of 2003, it would have companies employing over 5,000 people and occupying 4,000,000 square feet of building space. In contrast, Waterloo had a total of 10 businesses in its three industrial parks and has witnessed companies relocating from Waterloo to Cedar Falls, in part because of their need for bigger bandwidth.”⁸ As Doris Kelly showed

⁶ News Blaze, “Largest NuComm International to Locate in Louisiana” (August 7, 2006), <http://bit.ly/NdXCjU>.

⁷ See, e.g., R. Gervis, “Louisiana City Blazes High-Speed Web Trail,” *USA Today*, (Feb. 5, 2012), <http://goo.gl/B2vWS6>.

⁸ John Windhausen, “A Blueprint for Big Broadband,” EDUCAUSE at 10 (January 2008), <http://goo.gl/DV3g4G>

in an analysis comparing Cedar Falls and Waterloo on a broad range of criteria, the only significant difference between them was that Cedar Falls had a public broadband utility.⁹

In early 2014, Cedar Falls was recognized for its connectivity and for being the state's first gigabit city. Jim Krieg, general manager of Cedar Falls Utilities, noted that "150 years ago the cities near railroads flourished. Fifty years ago, the cities near interstate highways flourished." Now, he points to fiber optics as the source of the city's growth saying, "[t]wenty years ago, [Cedar Falls] had 27 businesses and \$5 million in taxable valuation; today, there are 160 businesses and \$270 million in valuation."¹⁰

Tacoma, Washington: Tacoma's Click! Network has played a significant role in revitalizing Tacoma and has attracted more than 100 high-tech businesses to the community. Business leaders readily acknowledge that Tacoma's municipal communications utility's ability to serve their needs is the key factor that made them comfortable with moving to Tacoma rather than to Seattle or other large cities.¹¹

Auburn, Indiana: When Cooper-Standard Automotive was going to move 75 high-tech jobs out of this small Indiana town because no private company was willing to provide broadband in the town, the mayor and municipal electric utility offered to furnish Cooper "industrial strength connectivity" through fiber optics. Cooper accepted and stayed. Now, Auburn has extended its fiber network throughout the town.¹²

⁹ Doris Kelly, A Study on the Economic and Community Benefits of Cedar Falls, Iowa's Municipal Broadband Network (July 2004), <http://goo.gl/kZfJZb>.

¹⁰ Christinia Crippes, "Branstad in Cedar Falls to Discuss Broadband" *Waterloo Cedar Falls Courier*, (Feb. 27, 2014), <http://goo.gl/HtAyyw>.

¹¹ R. Starner, "Wired Cities," Site Selection Magazine (January 2011), <http://goo.gl/g7ZzGd>.

¹² Cisco Systems, "Optical Ring Safeguards City Power Utility Plus Local Jobs," <http://goo.gl/fQnZ47>. L. Gonzales, "Auburn Essential Services: A Workhorse in Northeast Indiana Saves Jobs, Serves Public," Community Broadband Networks (Jan. 3, 2014) <http://goo.gl/oIrtaz>.

The Dalles, Oregon, vs. Danville, Virginia: The Dalles, Oregon, a city of 11,873 in the picturesque Columbia River Gorge, operates a municipal fiber optic network. In 2005, as a direct result of The Dalles's municipal networking capabilities, Google decided to purchase an industrial site there for \$1.87 million, to house high-tech equipment that would be connected to the rest of the company's network.¹³ The project was expected to create "between 50 and 100 jobs over a matter of time, earning an estimated average of \$60,000 annually in wages and benefits."¹⁴

In contrast to The Dalles, the City of Danville, Virginia, did not have a fiber network when AOL came looking for a site. As a result, AOL struck Danville off its list of potential sites for a new data center and located the center in Prince William County, Virginia.¹⁵ After its setback with AOL, Danville developed a fiber network of its own. Now known as the "Comeback City," Danville has used its fiber network to revitalize its formerly depressed economy, which had fallen to a state-wide high of 19 percent unemployment, and has made the City a site of robust economic development, attracting Microsoft and IKEA, among many other new high-tech businesses.¹⁶

¹³ C. Mitchell, "How a Muni Network in The Dalles Led to a \$600M Data Center" Community Broadband Networks (Dec. 26, 2012), <http://goo.gl/QRBoKn>. See also, Andrew Bloom, *Tubes: A Journey to the Center of the Internet*, (May 2012).

¹⁴ K. Gray, "Port deal with Google to create jobs," *The Dalles Chronicle* (February 16, 2005), <http://goo.gl/Dhphfa>.

¹⁵ C. Kahn, "Danville Area Looks to Move From Tobacco, Textiles to Tech," Associated Press (October 3, 2003), cited in J. Baller and C. Lide, "Bigger Vision, Bolder Action,

¹⁶ A. M. Cohill, "Danville Transforms Its Economy with Fiber," *Broadband Communities Magazine*, (visited on August 28, 2014), available at <http://goo.gl/uB5Exo>.

Jackson, Tennessee: “For a small city, Jackson, Tennessee, boasts a high concentration of firms that provide off-site computing resources for other businesses. The reason: its state-of-the-art fiber network.”¹⁷

Pulaski, Tennessee: Operated by Pulaski Electric Service, the Energize fiber-to-the-home network makes triple-play broadband service available to every home, school, and business in this rural community – one of the smallest communities in the country with FTTH. The network serves 5,000 customers in the small town and twice that many in rural areas of Giles County. The network also supports a data center, housed in a tornado-proof bunker, that is capable of providing redundant data storage to businesses located throughout the state.¹⁸

In a very important public-private partnership, Pulaski provides affordable backhaul for a local entrepreneur who offers wireless service in remote, unserved areas of the County. In another significant partnership, Pulaski provides fiber transport to schools so that a private carrier can serve as ISP to the schools at high bandwidth.

Beyond simply offering triple-play service, the PES fiber network is a driver of local economic development. It delivers big broadband to a relatively remote, low-income community – and in the process, is a powerful tool for attracting businesses looking for a low-cost base of operations. A local small business, for example, prints high-end DVD boxes. Their design office is in Los Angeles, and they send very large graphic files back and forth to LA all the time. Before they were able to get the fiber-based service from Pulaski, it took them much longer to get their work done, and it was more expensive.

¹⁷ G. Daily, “Fiber-Wired City Attracts Managed Services Businesses,” *Killer App* (Dec 27, 2006). Entire article available in *Silicon Investor*, <http://goo.gl/9ZhvLI>.

¹⁸ Snapshot, Pulaski Electric System Fiber Project, *Broadband Properties Magazine* (Jan-Feb 2009), <http://goo.gl/OXFhk1>; G. Solomon, “Pulaski, Tenn. Joins the Global Fiber-Connected Community, *FTTH Prism*, <http://goo.gl/uROxSl>.

The Pulaski FTTH network also enables entrepreneurial residents to launch high-bandwidth home-based businesses. For example, a radiologist relocated to Pulaski a few years ago, attracted by the fiber. He rents a small office over the courthouse square to review radiological images. He examines x-rays, MRIs, and other images, and sends the results to doctors all over the United States—a business that would not be possible absent the connectivity. Similarly, a local graphic and web designer produces clothing catalogs and websites. This business would have been impossible before the installation of the network.

Powell, Wyoming: Powell exemplifies the way in which municipalities are using advanced communications systems to shrink the world and give its residents an opportunity to perform on a global platform. A South Korean venture capital firm has agreed to pay up to \$5.5 million to engage 150 certified teachers in rural Wyoming to teach English to students in South Korea using high-speed video teleconferencing over Powell’s fiber-to-the-home system. The Powell fiber system will enable the Wyoming-based teachers to work from home. The company that developed this project is now planning similar projects for students in China, Japan, and Taiwan.¹⁹ The project has been so successful that the City was able to acquire full ownership of the project 18 years ahead of schedule.²⁰

Easton, Maryland. Easton is on the Eastern Shore of Maryland, on the Chesapeake Bay, which makes deployment of communications infrastructure very difficult and costly. The Easton municipal electric utility built a hybrid fiber/coaxial network about a decade ago to provide data, voice, and video services throughout the town and in some adjoining rural areas.

¹⁹ E. Bray, “Powell, Wyoming: Creating a New FTTH Model,” *Broadband Properties Magazine* 32 (Aug-Sep 2008), <http://goo.gl/R0zCST>. See generally, “Broadband’s Positive Impact on Ranching and Agriculture in Wyoming,” *Link Wyoming* (Jan. 2014), <http://goo.gl/C92xza>.

²⁰ Tribune Staff, “City to Purchase \$6.5 million PowerLink Bond,” *Powell Tribune*, June 17, 2010, <http://goo.gl/cgdtQD>.

In nearby unserved areas, Easton has deployed wireless networks that provide connectivity to communities that would otherwise have the choice only of costly, slow satellite service. Easton serves most of the small businesses in and around the town, including media and graphics companies that require robust connectivity to survive and thrive. Among its small business users are a local museum, construction companies, and an aircraft maintenance firm. Easton's efforts to build capacity internally have enabled it to create all support jobs locally and to provide technology training to local workers. Easton has also made significant contributions to health care in the region by developing a high-speed data transfer network that substantially reduces delays in patient diagnosis and care, image interpretation and patient management.²¹

The examples above demonstrate that advanced communications networks are essential to attract or retain information economy businesses and institutions. As business site selection experts now frequently say, to be a real competitor in the new global economy, an area must provide advanced communications infrastructure – a basic building block for the information technology sector. In other words, having an advanced communications network will not guarantee that a business will move to or stay in a community, but not having such a system will for many communities guarantee failure.

B. Public Networks Providing Governmental Services

The second category of local government broadband networks includes networks that provide inter- and intra-government communications as well as communications among community anchor institutions, including services to and among first responders, schools, community colleges, libraries, government facilities, and public health facilities.³² There are

²¹ American Public Power Association, "High-speed data transfer system enhancing patient treatment, health care officials say," *Public Power Weekly*, April 14, 2003, <http://goo.gl/8m0baL>.

thousands of such broadband networks across the country, and they utilize a wide range of architectures, technologies, and operating entities.

Many local communities also use their communications networks to enable wired or wireless services that meet the needs of the most vulnerable residents in the community. The City and County of San Francisco, for example, provides free broadband access to over 3,000 residential units within public housing developments, as well as low-cost broadband service to various community anchor sites. Similarly, Palm Beach County, Florida offers free wireless to school children around some of its neighborhood schools.

C. Public Efforts That Enable Private Opportunity and Provide Partnership Models

A third growing, important trend in public networking is the public/private partnership. Hundreds of localities are engaged in evaluating the potential to use existing government assets, such as fiber optics or communications conduit, as a means to enable private sector network deployment. As the nation's need for fiber-to-the-premises has become more apparent, this trend has grown – at least in states where such partnerships are not burdened by anti-competitive laws.

In one common model for public/private partnerships, some local governments have provided private Internet Service Providers access to their fiber assets as a means of stimulating new private broadband investment. They realize that their local government fiber networks can serve as an open platform for last mile deployment, both public and private. Government networks serving anchor institutions reach deep into neighborhoods that house schools, libraries, public health facilities, and government facilities such as water towers and fire stations. By their nature, fiber optic networks are capable of supporting many other users,

including many service providers, as long as the networks are engineered to provide adequate security for governmental uses.

The following is a small sampling of the types of partnerships that are emerging nationally, many of which will serve as models for other communities as they consider how to enable new broadband deployment.

Seattle, Washington: Like many government anchor networks, the Seattle network has been built through the economically efficient mechanism of shared construction, in which agencies and organizations agree to build cooperatively and simultaneously, viewing cooperation as win/win rather than seeking to preclude competition and the emergence of new networks. The network was made affordable by the agreement of numerous public entities who agreed that, in the event that one planned to build fiber plant, the others would have the option of contributing funds to build additional capacity in this shared infrastructure. Each partner agency operates its own network services over the shared physical infrastructure, but only one physical network was built to enable these many functional networks.

The end result has been a robust, high-bandwidth infrastructure that realizes economies of scale in both construction and maintenance – to the benefit of both public and private sectors. Excess capacity on this network has now been made available by Seattle to private partners who are interested in using the capabilities to expand their last mile footprints in the city.²²

Idaho Falls Power, Idaho: Idaho Falls Power (IFP) generates hydropower on the Snake River and has received national recognition from the American Public Power Association for its safe and reliable service. IFP's Circa division operates a citywide fiber-

²² City of Seattle, "Increasing access to existing fiber optic cable network," October 1, 2012, <http://goo.gl/hPmnPr>.

optic network comprising more than 130 miles of fiber configured in a highly resilient ring architecture. Circa connects IFP's substations, supports IFP's supervisory control and data acquisition (SCADA) system, and will play a key role in the development of a large advanced metering infrastructure (AMI) project. Of Circa's 96 strands of fiber, 36 are dedicated to City use, leaving 60 strands available as dark fiber for lease to commercial service providers for the benefit of the City's businesses and institutions.²³

Ontario County, New York: In Ontario County, New York, the Finger Lakes Regional Telecommunications Development Corp. (FLRTDC) is developing a 180-mile a community-based, non-profit fiber backbone network that interconnects key middle-mile entities throughout the county. The network will be available on an open-access basis to last-mile providers. Ontario County provided startup funding for the project through a loan of \$2.5 million and advance payments for services, and the project will be completely self-sustaining through fiber lease payments from numerous sizable users. This low-cost access to the fiber backbone has already spurred development and investment of last mile solutions, as well as competitive access throughout the county. Notably, the network is also delivering savings to the private sector. FLRTDC notes that cellular service providers are realizing savings of as much as 66 percent over prior costs, which are being reinvested into new technologies and better services throughout the county.²⁴

Urbana and Champaign, Illinois: These innovative cities and the University of Illinois built, over the past few years, a robust fiber backbone to connect multiple community anchor institutions and some of the low income areas of the communities. Public funding was supplemented by private contributions from entities who were interested in access to dark

²³ Idaho Falls Power, "About Circa," <http://goo.gl/wJsw4F>.

²⁴ Axxess Ontario, "About-us," <http://goo.gl/Yxo5b5>.

fiber on the cities' rings. This year, the communities announced a partnership with a local fiber-to-the-home company, iTV-3, under which iTV-3 would build fiber-to-the-home in all areas of the cities meeting demand thresholds, using the existing fiber rings as a base.²⁵

Garrett County, Maryland: In Garrett County, a rural, mountainous part of Appalachia, the county government has dedicated funding to using TV white space technology to reach 3,000 unserved homes in a rural area. The county is currently testing multiple vendors' equipment, and plans to release an RFP for a private partner during the next few months. The county's vision is to build a partnership in which the county investment will provide support sufficient to make the unserved area of more interest to a private investor, and the private partner will own, operate, and profit from the network.²⁶

Humboldt County and Cities of Eureka, Arcata, Fortuna, Rio Dell, Ferndale and Blue Lake California—Digital Redwoods: Launched by the non-profit Access Humboldt organization, the Digital Redwoods initiative brought together a range of public and private partners to offer free public Wi-Fi in small rural communities on the North Coast of California. Through its innovative, public-interest-focused local partnerships, Access Humboldt was able to secure cost-effective bandwidth and backbone Internet access; donated equipment; and low-cost maintenance services. As a result, Access Humboldt's operating costs for this public interest, locally owned and operated community broadband network are only a few hundred dollars per year. Given Humboldt County's remote location, general lack of infrastructure, and high level of poverty (almost 20 percent, according to recent Census

²⁵ UC2B, "UC2B Has Partnered With ITV-3 to Expand Our Fiber Network in Urbana And Champaign!," <http://uc2b.net>.

²⁶ CTC, "Broadband in Garrett County: A Strategy for Expansion and Adoption" (May 2012), <http://goo.gl/2Dytq9>; Garret County Community Action Committee to the FCC, "Expression of Interest – Rural Experiment," March 5, 2014, <http://goo.gl/cAHX6D>.

statistics), this project provides broadband access to many who cannot afford what services are offered by the private sector.²⁷

III. LOCAL BROADBAND INITIATIVES SPUR PRIVATE INVESTMENT AND ECONOMIC DEVELOPMENT

Local government authority and involvement in broadband deployment is beneficial to our nation's communities. Local governments must respond to their citizens' demands for broadband services. The experience of local governments across the country has been nearly universal: municipal broadband deployment stimulates private sector investment and has a positive effect on the local economy.

One illustration of this pattern can be found in Lake City and Hinsdale County, Colorado.

The area's service provider, in response to customer concerns, had suggested it would expand and improve broadband in future years. The municipality decided to conduct a study to look into its broadband options and looked into the possibility of leasing capacity for the development of a municipal network. This step alone was sufficient to spur action on the part of the service provider. Immediately, the improvements budgeted for later years were accelerated and the provider installed a significantly enhanced circuit to reach this remote community, enabling broadband speeds of 10 Mbps. The service provider also began the expansion of broadband service to parts of the County that previously were unserved. These improvements are underway years before the service provider initially planned to undertake

²⁷ S. MacLaughlin, "Digital Redwoods: Cultivating a Sustainable Media Ecosystem," *Community Digital Media* (Summer 2010), <http://goo.gl/MEcD7D>; Access Humbolt, "Overview," <http://goo.gl/EWijAo>.

them and all because the local governments decided to look into the development of a municipal broadband network.

Municipal efforts tend to result in enhanced private sector efforts. In multiple cases, private providers have chosen to invest in communities that have built or are contemplating building municipal networks. Additionally, these communities have seen decreases in pricing and improvements in customer service. Among the communities who have experienced a private sector response similar to that of Hinsdale County, Colorado are Scottsboro, Alabama; Alameda, California; Dalton, Georgia; LaGrange, Georgia; Glasgow, Kentucky; Murray, Kentucky; Spencer, Iowa; Windom, Minnesota; Morgantown, North Carolina; Salisbury, North Carolina; Wilson, North Carolina; Lebanon, Ohio; Wadsworth, Ohio; Kutztown, Pennsylvania; Jackson, Tennessee; Provo, Utah; and Tacoma, Washington.

Municipal broadband networks also positively impact local economies. In an April 2005 study, entitled “Broadband and Economic Development: A Municipal Case Study From Florida,” George S. Ford and Thomas M. Koutsy concluded that “broadband infrastructure can be a significant contributor to economic growth. . . [and] efforts to restrict municipal broadband investment could deny communities an important tool in promoting economic development.” The study “quantif[ied] the effect on economic development resulting from a community’s investment in a broadband network” by looking at Lake County, Florida who, in 2001, developed a municipal broadband network (and provided access to the network to private businesses). In comparing Lake County to similar communities in Florida who did not have municipal broadband networks, the study found that Lake County had “experienced a 100% - a doubling – in economic growth relative to its Florida peer counties” since the deployment of the municipal network. The study points out that this doubling occurred despite

the fact that these other counties “no doubt” had private broadband networks during the evaluation period.

The study concluded by hypothesizing that the reason for the massive economic growth experienced by Lake County (and not by peer counties without municipal networks) was because of the different deployment incentives of communities and private-sector providers. Private firms are incentivized to increase profits; on the other hand, municipal networks are deployed with the public benefit as the primary incentive. This difference in incentives was visible to business owners in Lake County and the economic and technological benefits of municipal broadband networks have been repeated in communities across the country.

Similarly, a 2010 study found a causal relationship between broadband deployment and local economic growth, using data from 1999 to 2006. The study found that almost all industries showed a positive relationship between broadband expansion and local economic growth, particularly in industries that rely on information technology.²⁸ Likewise, a 2013 study led by an Oklahoma State University professor focused on the impact of broadband connectivity on the economic health of rural areas. The study found that “high levels of broadband adoption in rural areas do causally (and positively) impact income growth . . . as well as (negatively) influence poverty and unemployment growth. Similarly, low levels of broadband adoption in rural areas lead to declines in the number of firms and total employment numbers in the county.”²⁹

²⁸ J. Kolko, “Broadband and Local Growth,” Public Policy Institute of Calif., August 21, 2010, <http://goo.gl/55bAII>.

²⁹ B. Whitacre, R. Gallardo, S. Strover, “Broadband’s Contribution to Economic Health in Rural Areas: A Causal Analysis” *TPRC 41: The 41st Research Conference on Communication, Information and Internet Policy*, (March 26, 2013), <http://goo.gl/JEOpcV>. See also, Stewart Schley, “Study Finds Broadband Adoption Is Tied To Economic Growth” *University of New Hampshire Broadband Center of Excellence* (visited August 27, 2014), <http://goo.gl/7rP7bx>.

Local broadband initiatives have not only lowered the cost and improved the quality of government services, but have also fostered economic development, educational opportunity, public safety and homeland security, affordable modern health care, environmental sustainability, energy efficiency, digital equity, and quality of life of their communities. They have done so in many different ways, using a variety of technologies, involvement models, partnering arrangements, and funding mechanisms. The common feature of these initiatives is that they are driven by, and highly responsive to, local conditions and needs.

IV. LOCAL EFFORTS ARE SIGNIFICANTLY BURDENED BY EFFORTS TO STOP THE EMERGENCE OF NEW NETWORKS AND COMPETITION

Local governments do not undertake these projects lightly or for purposes of profit. Rather, local governments are generally conservative and risk-averse; they undertake these projects out of economic necessity to bring the benefits of broadband to their communities. Before embarking on a community broadband initiative, local officials typically ask the established carriers to meet local requirements or at least to work with the local government to do so together. Not only does this make practical sense, but political realities dictate that local governments give the carriers such an opportunity. Unfortunately, the carriers almost always decline, particularly in rural and high-cost areas where they cannot economically meet local requirements.

This pattern is reminiscent of a century ago, when electric systems were first deployed and private power companies built first in their most lucrative markets. More than 3,000 unserved local communities, believing that their economic vitality and quality of life was at stake, stepped forward to establish and operate their own electric utilities (sometimes despite

fierce opposition from power companies). The communities that did so typically survived and thrived, while many other communities that waited for the private power companies to get around to them languished or even became “ghost towns.”³⁰

Today, hundreds of local governments are convinced that affordable access to advanced communications services and capabilities is essential to ensure success in the emerging knowledge-based global economy. Many have already developed their own communications utilities, and numerous others are eager to do so. Unfortunately, incumbent providers have often responded with a variety of efforts with the purpose and effect of halting or delaying public broadband initiatives.

First, some incumbents have sought to push local decision makers and the public into abandoning such initiatives. Early in the last century, private power companies mounted massive campaigns of misinformation to tout their services and discredit community initiatives; invested heavily in misleading media advertising; subsidized advantageous research by supposedly independent experts favoring their views; and enlisted industry executives and employees to disparage municipal electric systems. Franklin Delano Roosevelt denounced these efforts as “a systematic, subtle, deliberate and unprincipled campaign of misinformation and propaganda, and if I may use the words 'of lies and falsehoods.'”³¹

Where such efforts at the local level have failed to discourage community broadband initiatives, some incumbents have lobbied state legislatures to prohibit or effectively prohibit local government public communications initiatives. In recent years, such efforts have had

³⁰ J. Baller, “Deceptive Myths About Municipal Broadband: Disinformation About Public Ownership Is Impeding Progress, Broadband Properties Magazine (May 2005), <http://goo.gl/6QmmYL>.

³¹ J. Baller, “The Essential Role of Consumer-Owned Electric Utilities in Developing The National Information Infrastructure: A Historical Perspective” (1994), <http://goo.gl/GTvPJv>.

only sporadic success, as state legislators have increasingly come to understand the connection between robust broadband connectivity and the well-being of their communities, their states, and the Nation. Unfortunately, new barriers sometimes do make it through to enactment, and existing measures have been difficult or impossible to remove at the state level.

Appended as Appendix 1 is a chart describing 21 state barriers to public communications initiatives. While the barriers differ from state to state, they all have a single purpose and effect – to block or significantly delay public entities in deploying advanced communications networks. The barriers do so either by prohibiting specified activities outright or by imposing “level playing field” requirements that actually make it practically impossible for local governments to undertake the ventures. Rather than create competitive equality, the barriers subject local government to prohibitively time-consuming and expensive procedural and substantive burdens that private entities need not meet -- and cannot meet. Unless and until these barriers are removed by federal or state action, countless communities in the states in question will be deprived of the advantages that communities in other states enjoy.

In addition, some carriers have then tried to limit community initiatives through litigation. For example, Bristol, Virginia; Cedar Falls, Iowa; Chattanooga, Tennessee; Glasgow, Kentucky; Hawarden, Iowa; Lafayette, Louisiana; Laurinburg, North Carolina; Monticello, Minnesota; Morganton, North Carolina; Niceville, Florida; North Kansas City, Missouri; Portland, Oregon; Reedsburg, Wisconsin; Truckee-Donner, California; the UTOPIA project, Utah; and numerous other local governments have had to waste countless hours and dollars on disruptive litigation before the courts, public service commissions, bond commissions, and other agencies. While the carriers have lost the great majority of these cases, they have nevertheless benefited from them in other ways, including by driving up the

costs of public communications initiatives and by deterring untold numbers of communities from engaging in similar projects for fear of being dragged into protracted – though frivolous – litigation.

Finally, some incumbents have engaged in a wide range of direct anticompetitive practices to destroy public communications projects in the field. These include predatory pricing; targeted rate discrimination; denying access to critical content; denying access to poles,

ducts and other infrastructure; blocking access to potential customers, particularly in multi-dwelling units; and a variety of other tactics.

Unfortunately, many of the above tactics are very successful in stopping the emergence of advance communications networks. And they have a chilling effect – by increasing the *potential* risk of a community initiative so dramatically that some potential projects are never initiated. As a result, the inevitable result of all this costly, time-consuming opposition is not only that the project in question is slowed or stopped – but also that many other projects are arrested or never initiated. If America’s communities are to achieve their full potential, public broadband initiatives must be protected from these barriers.

V. CONCLUSION

Modern broadband Internet infrastructure is foundational to the economic vitality and quality of life of our communities, as well as the democratic discourse that thrives on the Internet. Meeting the challenge of enabling the necessary investments in advanced communications infrastructure will require the engagement of all parties, both private and public. As Senator John McCain has observed,

...As a country, we cannot afford to cut off any successful strategy if we want to remain internationally competitive.

I recognize that our Nation has a long and successful history of private investment in critical communications infrastructure. That history must be respected, protected, and continued. However, when private industry does not answer the call because of market failures or other obstacles, *it is appropriate and even commendable, for the people acting through their local governments to improve their lives by investing in their own future.* In many rural towns, the local government's high-speed Internet offering may be its citizens' only option....³²

America is ill-served by anti-competitive state barriers that hinder broadband investment, competition, and innovation. These barriers are bad for the communities involved, bad for the private sector (particularly high-technology companies that want to work with communities or take advantage of their networks), and bad for America's global competitiveness. We respectfully request the Commission consider our comments as it continues its review of these petitions.

Respectfully submitted,



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³² Sen. John McCain, Floor Statement, Cong. Rec. S7299 (June 23, 2005) (emphasis added), <http://goo.gl/Q2K4GC>.